

REMARKS/ARGUMENTS

Favorable reconsideration of this application in light of the following discussion is respectfully requested.

Claims 10-16 are presently active in this case. The present Amendment cancels Claims 1-9 without prejudice or disclaimer, and adds new Claims 10-16 without introducing any new matter.

In the outstanding Office Action, Claims 1-9 were objected to because of informalities. Claims 1-9 were rejected under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the best mode requirement. Claims 1-9 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite.

To correct formal issues in the claims, to better comply with U.S. claim drafting practice, and to overcome the objections to the claims, original Claims 1-9 are cancelled without prejudice or disclaimer, and new Claims 10-16 are presented. New Claims 10-16 have been written in device claim language to avoid the expression “means” that connotes means-plus-function claim construction. The features of new Claims 10-16 find non-limiting support in Applicants’ disclosure as originally filed. For example, the features of new independent Claim 10 find non-limiting support in Figures 1-2, and in the specification where the “a plurality of equipment units” are described at p. 11, ll. 19-36, and at p. 18, ll. 19-33 in a non-limiting embodiment. Moreover, the “central maintenance unit” is described in Figure 1, and in the specification at page 13, lines 4-37. No new matter has been added. Regarding dependent Claim 11, depending from independent Claim 10, the features related to the “subset of equipment units” find non-limiting support in Figure 1, reference numeral 11, and in the specification starting at p. 12, l. 21.

Moreover, new Claim 12 is directed to features related to the “user interface,” and depends on independent Claim 10. These features find non-limiting support in the

specification at p. 16, ll. 22-30. New Claim 13 depends on independent Claim 10, and recites features related to the “report on the overall state of the operation,” finding non-limiting support in the specification at p. 13, ll. 17-25. New Claim 14 depends from independent Claim 13 and recites features related to the airborne external communications network, and finds non-limiting support in the specification at p. 13, ll. 31-37. New Claim 15 depends from dependent Claim 11, and recites further features related to the detection circuit, and finds non-limiting support in Figure 2, reference numeral 403 and 413, and in the specification at page 21, lines 7-16. New Claim 16 depends upon independent Claim 10, and finds non-limiting support in Applicants’ disclosure as originally filed, for example in the specification at p. 16, ll. 30-35. No new matter has been added by the new claims.

In response to the rejection of Applicants’ claims under 35 U.S.C. § 112, first paragraph, as not complying with the best mode requirement, Applicants respectfully traverse this rejection, as next discussed.

To determine compliance with the best mode requirement, the would be required to perform a two-prong inquiry. M.P.E.P. § 2165. First, it must be determined whether, at the time the application was filed, the inventor possessed a best mode for practicing the invention. This is *a subjective inquiry which focuses on the inventor's state of mind* at the time of filing, and this inquiry focuses only the disclosure as a whole, and not solely on the claims. Second, if the inventor did possess a best mode, it must be determined whether the written description disclosed the best mode such that a person skilled in the art could practice it. This is an objective inquiry, focusing on the scope of the claimed invention and the level of skill in the art. See *Eli Lilly & Co. v. Barr Laboratories Inc.*, 251 F.3d 955, 963, 58 USPQ2d 1865, 1874 (Fed. Cir. 2001).

The USPTO did not perform any subjective inquiry what the inventor’s state of mind was at time of filing the invention. Such inquiry can be done in the discovery phase of a

litigation, where the inventor is deposed on issues of best mode, to see if the inventor has concealed the "best mode" of his invention when preparing the patent application.

Accordingly, Applicants believe that the rejection of Applicants' claims as not complying with the best mode requirement is misapplied in this context, and therefore respectfully requests reconsideration of this rejection.

Consequently, in view of the present amendment, no further issues are believed to be outstanding in the present application, and the present application is believed to be in condition for formal Allowance. A Notice of Allowance for Claims 10-16 is earnestly solicited.

Should the Examiner deem that any further action is necessary to place this application in even better form for allowance, the Examiner is encouraged to contact Applicants' undersigned representative at the below listed telephone number.

Respectfully submitted,

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